

**CITY COUNCIL OF THE CITY OF SAN DIEGO  
SUPPLEMENTAL DOCKET NUMBER 1  
FOR THE REGULAR MEETING OF  
MONDAY, JUNE 27, 2005 AT 2:00 P.M.  
CITY ADMINISTRATION BUILDING  
COUNCIL CHAMBERS – 12<sup>TH</sup> FLOOR  
202 “C” STREET  
SAN DIEGO, CA 92101**

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**SPECIAL ORDERS OF BUSINESS**

ITEM-S400: Charles G. Abdelnour City Clerk Emeritus Day.

**MAYOR MURPHY’S, DEPUTY MAYOR ZUCCHET’S, AND  
COUNCILMEMBER FRYE’S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-1373)

Bestowing upon Charles G. Abdelnour emeritus status;

Proclaiming Monday, June 27, 2005, to be “Charles G. Abdelnour City Clerk Emeritus Day” in the City of San Diego, in honor of his myriad accomplishments.

SPECIAL ORDERS OF BUSINESS (Continued)

ITEM-S401: Aaron Price Fellows Day.

**COUNCILMEMBER PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2005-1364)

Proclaiming the day of June 27, 2005, to be "Aaron Price Fellows Day" in the City of San Diego, in recognition of the positive impact the Aaron Price Fellows Program brings to the City of San Diego.

ADOPTION AGENDA, CONSENT ITEMS

RESOLUTIONS:

\* ITEM-S402: Alpha Kappa Alpha Sorority, Inc. Day.

**COUNCILMEMBER YOUNG'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-937)

Commending the Epsilon Xi Omega Chapter of Alpha Kappa Alpha Sorority, Inc., for its commitment to public service throughout the City of San Diego;

Proclaiming April 4, 2005, to be "Alpha Kappa Alpha Sorority, Inc. Day" in the City of San Diego.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

RESOLUTIONS:

ITEM-S403: Lease Agreement with KenCal Ownership, LLC, for the Hyatt Regency Islandia Hotel and Marina, located in the Quivira Basin Area of Mission Bay Park.

(See City Manager Report CMR-05-151. Mission Bay Park Community Area. District 2.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005-1387)

~~(O-2005-144)~~

~~Introduction of an Ordinance~~ Authorizing the City Manager to execute a fifty-year lease agreement with KenCal Ownership, LLC, a California limited liability company, for the Hyatt Regency Islandia Hotel and Marina on 9.73 acres of land and 9.119 acres of water of City-owned property in the Quivira Basin area of Mission Bay Park at an annual rental of \$1.9 million after a one-year construction period rental of \$1 million, under the terms and conditions set forth in that lease agreement.

**NOTE:** ~~6 votes required pursuant to the San Diego City Charter, Section 99.~~

Staff: Will Griffith – (619) 236-6144  
Elisa A. Cusato – Deputy City Attorney

**ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS**

**RESOLUTIONS:**

ITEM-S404: Third Amendment to Retention Agreement with Vinson & Elkins to Provide Representation Before the Securities and Exchange Commission and to Perform Additional Investigation with Respect to the Audit of the City's FY 2003 Financial Statements.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2005- )

Authorizing a third amendment to the retention agreement between the City of San Diego and Vinson & Elkins, in an amount not to exceed an additional \$1,800,000, for legal services related to representing the City before the Securities and Exchange Commission, and to perform additional investigation related to the audit by KPMG of the City's FY 2003 Financial Statements; and directing the City Attorney to prepare applicable resolution.

**CITY MANAGER SUPPORTING INFORMATION:**

The City previously retained the law firm of Vinson & Elkins to prepare an internal report on the City's securities disclosure practices from 1996 through the present, and to provide representation of the City before the federal Securities and Exchange Commission (SEC) with respect to an investigation by the SEC. The total contract amount authorized by the Mayor and City Council for those purposes was in an amount not to exceed \$2.0 million. Vinson & Elkins delivered its report to the City, and has been continuing to represent the City before the SEC, primarily at this time focused on responding to document requests and other requests for information.

The City's FY 2003 CAFR has not been finalized and issued. The City Manager retained the firm of KPMG, LLP to perform the audit of the City's FY 2003 basic financial statements. Pursuant to accounting standards and practices, the City needs to conduct additional investigation beyond the scope of the Vinson & Elkins Report on Investigation to address issues relating to the financial statements. The additional investigation is necessary because the City's and KPMG's obligations with respect to allegations of illegal conduct in the context of an audit are broader than the investigation and reporting on federal disclosure law violations, the purpose for which the Vinson & Elkins Report was commissioned. The additional investigation will address legal issues and allegations of wrongdoing that were not the subject of the Vinson & Elkins Report.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-S404: (Continued)

**CITY MANAGER SUPPORTING INFORMATION:** (Continued)

V&E was retained to perform the additional investigation by the City Manager. The initial contract amount was not to exceed \$250,000, which was amended by the City Council in November 2004, for an additional \$350,000, and again in February 2005, for an additional \$1,200,000. The City continues to work cooperatively with KPMG on progress of the additional investigation. In addition, the City Attorney is also conducting an investigation of these allegations of wrongdoing. In order to complete the additional investigation, additional funding for V&E's services is required. An additional \$1,800,000 is needed to continue with the additional investigation. Additional sums may be necessary in the future depending on any additional scope and requirements as a result of the ongoing investigation.

Ewell

Aud. Cert. 25001112.

ADOPTION AGENDA, DISCUSSION, HEARINGS

NOTICED HEARINGS:

ITEM-S405: Three actions related to Condemnation of Property for the Carmel Valley Trunk Sewer Project.

(See City Manager Report CMR-05-113. Pacific Highlands Ranch Community Area. District 1.)

(Continued from the meeting of 6/21/2005, Item 332, at the request of Councilmember Peters, due to lack of time.)

**NOTE:** Hearing open. No testimony taken on June 21, 2005.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2005-1105 Cor. Copy)

Determining that the public interest and necessity require the acquisition of certain land and directing the filing of eminent domain proceedings for the Carmel Valley Trunk Sewer Project (APNS 305-060-20, 305-040-20, 305-040-21, and 305-021-16).

Subitem-B: (R-2005-1106)

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$370,750 from Developer's Trust Account No. 63020 for acquisition of property rights, condemnation, labor, title, escrow, and miscellaneous costs, upon the adoption.

Subitem-C: (R-2005-1352)

Stating for the record that determining that the public interest and necessity require the acquisition of certain land and directing the filing of eminent domain proceedings for the Carmel Valley Trunk Sewer Project is a subsequent discretionary approval of the Project addressed in the Mitigated Negative Declaration No. 4411 and therefore not a separate project under CEQA Guideline Sections 15060(c)(3) and 15378(c);

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-S405: (Continued)

Subitem-C: (Continued)

Stating for the record that the information contained in the final the Mitigated Negative Declaration, including any comments received during the public review process, has been previously reviewed and considered by this Council and it is determined that this subsequent discretionary approval of determining that the public interest and necessity require the acquisition of certain land and directing the filing of eminent domain proceedings for the Carmel Valley Trunk Sewer Project does not involve change in circumstances, project changes, or new information of substantial importance which would warrant any additional environmental review.

Staff: Lane MacKenzie – (619) 236-6050  
Leslie A. FitzGerald – Deputy City Attorney

ADOPTION AGENDA, DISCUSSION, HEARINGS

SPECIAL HEARINGS:

ITEM-S406: In the Matter of:

Appointing a City Council Budget Working Group to consider revenue enhancements.

**Additional Information:**

Councilmembers Young and Atkins have volunteered to serve on this working group. The City Council may appoint these two members and/or additional member(s) to this working group.



**PUBLIC NOTICES:**

Items are listed under Public Notice as a matter of public record only. These items do not require Council action and there is no public testimony.

ITEM-S407: **Notice** of Settlement of Personal Injury Claim of Josie Clark.

(R-2005-1365)

Adopted as Resolution R-300553 on June 20, 2005.

A Resolution approved by the City Council in Closed Session on Monday, June 20, 2005, by the following vote: Peters-yea; Zucchet-not present; Atkins-yea; Young-yea; Maienschein-yea; Frye-yea; Madaffer-yea; Inzunza-not present; Mayor-not present.

Authorizing the City Manager to pay the sum of \$70,000 in the settlement of each and every claim against the City of San Diego, its agents and employees, in Superior Court Case No. GIC 834061, Clark v. City of San Diego, et al., resulting from a personal injury claim of Josie Clark;

Authorizing the City Auditor and Comptroller to issue one check in the amount of \$70,000, made payable to Josie Clark and her attorney of record Cathryn Chin, in full settlement of all claims.

**NOTE:** This item is placed on a Council docket, so that the official and public record will reflect the adoption of this Resolution. It does not require any further Council action.